



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 3, 1996

Mr. Alan Rhodes
Underwood, Wilson, Berry, Stein & Johnson, P.C.
P.O. Box 9158
Amarillo, Texas 79105-9158

OR96-0867

Dear Mr. Rhodes:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 100007 (previously ID# 33969).

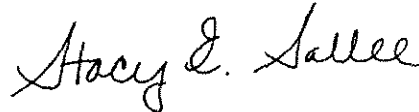
The Sunray Independent School District (the "school district"), which you represent, received a request for the January 12, 1995, evaluation of Superintendent Ken Oller. You state that the information was provided to the requestor. However, the names of four school district employees were redacted from the information provided to the requestor. You contend that the redacted information is excepted from required public disclosure due to the privacy interests of the employees.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. In the last legislative session, Senate Bill 1 was passed, which added section 21.355 to the Education Code. Section 21.355 provides, "Any document evaluating the performance of a teacher or administrator is confidential." This office recently interpreted this section to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or administrator. Open Records Decision No. 643 (1996). We enclose a copy of Open Records Decision No. 643 (1996) for your information. In that opinion, this office also concluded that a teacher is someone who is required to hold and does hold a certificate or permit required under chapter 21 of the Education Code and is teaching at the time of his or her evaluation. *Id.* Similarly, an administrator is someone who is required to hold and does hold a certificate required under chapter 21 of the Education Code and is administering at the time of his or her evaluation. *Id.*

We note that at the time the school district provided these redacted evaluations to the requestor, no law made the evaluations confidential. However, section 21.355 now provides confidentiality for any document evaluating the performance of a teacher or administrator, which necessarily includes all the information contained in that evaluative document. We assume for purposes of this ruling that the superintendent is an administrator, holding the appropriate administrator's certificate. *See* 19 T.A.C. § 137.304. Accordingly, based on the reasoning set out in Open Records Decision No. 643 (1996), we conclude that the school district must not release the redacted information under section 21.355 of the Education Code as applied through section 552.101 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/ch

Ref.: ID# 100007 (previously ID# 33969)

Enclosures: Open Records Decision No. 643 (1996)
Submitted documents

cc: Mr. Todd J. Hepler
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Dumas, Texas 79029
(w/o submitted documents; w/Open Records Decision No. 643 (1996))